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ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 24th May 1957

S.R.O. 1737.—In pursuance of the provisions of sub-section (1) of section 86 of the Representation of the People Act 1951, the Election Commission hereby publishes a copy of the Election Petition No. 284 of 1957, presented to the Commission on the 25th April 1957 under section 81 of the said Act, by Shri Sri Krishna Agrawal, S/o L. Kedar Nath, 43/225 Chowk Sarafa, Kanpur, calling in question the election to the House of the People from the Kanpur constituency of the House of Shri S. M. Banerji, 15/268, Civil Lines, Kanpur.

Presented to me by Shri Sri Krishna Agrawal whose signature has been obtained in the margin and attested as having been signed before me this the Twenty Fifth day of April One Thousand Nine Hundred and Fifty Seven.

(Sd.) SRI KRISHNA AGRAWAL.

Attested.

DIN DAYAL, 25-4-57.

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Under Secy.,

Election Commission, India.

BEFORE THE ELECTION COMMISSION, NEW DELHI

ELECTION PETITION No. 284 OF 1957

Sri Krishna Agrawal son of L. Kedar Nath, Resident of 43/225 Chowk Sarafa, Kanpur.....*Petitioner.*

Versus

S. M. Banerji, Resident of 15/268 Civil Lines, Kanpur.....*Respondent.*

U/S 80 of the Representation of the People Act, 1951 .— The humble petitioner begs to submit as hereunder:—

1. That the petitioner is an elector in the Parliamentary Constituency No. 331, Kanpur which is a single member constituency and his electoral roll

No. is 1317 entered on page 14 of the Part 6, Chak 43 Narial Bazar, U.P. Assembly Constituency 159 Kanpur City III of the Electoral roll of the said Parliamentary Constituency, and as such he is entitled to present this petition.

2. That the nomination papers for the said parliamentary election were filed on various dates between 19th January 1957 and 29th January 1957, the latter being the last date for filing the nomination paper to contest the said election.

3. That all the candidates including the respondent filed their nomination papers to contest the said election in between the dates mentioned in para 2 above, and almost all of them contested the said election.

4. That the result of the said election was declared on 13th March 1957 and the respondent was declared elected.

5. That the election of the respondent is illegal, void and liable to be set aside for the following amongst other grounds:—

- (a) That the respondent was employed as Supervisor 'A' Grade (Substantive U.D.C.) at the Government Ammunition Factory at Kirki and he had been dismissed from service on charges of disloyalty and gross misconduct on 24th January 1956 but the respondent never submitted to the aforesaid order passed by the Government and at the date of filing the nomination paper for the said election maintained that he continued to be in the service of the Government and challenged by a writ petition No. 138 of 1956 before the Hon'ble High Court at Calcutta that all orders passed against him were illegal, *ultra vires* and contravened his fundamental rights guaranteed under the Constitution of India; and the said petition was pending at the time of the nomination of the respondent, and the said court was pleased to order to issue notice to the Government.
- (b) That it was not open to any body to agitate the aforesaid matter before any other authority when the Hon'ble High Court was seized of the matter. The fact, however, remains that the respondent maintained himself to be a Government servant at the date of the nomination of the candidates.
- (c) That the respondent after his election withdrew his said writ petition and thus excluded all possibilities of a judicial judgment on the point of his status at the date of his nomination. The petitioner, however, asserts that the respondent being a Government servant was not competent to be nominated as a candidate for election to the House of the People.
- (d) That apart from the above mentioned reasons the nomination paper of the respondent was also improperly accepted by the Returning Officer, inasmuch as, the respondent having been dismissed from Government service did not obtain a certificate in the prescribed manner from the Election Commission to the effect that he had not been dismissed for corruption or disloyalty to the State.
- (e) That the respondent or his supporters obtained or procured or abetted or attempted to obtain or procure assistance (other than the giving of vote) of persons in the service of Government.
- (f) That such persons not only acted as polling agents of the respondent but they forced certain persons who were in the service of the Government to subscribe directly or indirectly to the election fund of the respondent.
- (g) That just a week before polling of the said election there occurred a lightning strike by the workers of the Elgin Mills on 1st March 1957. The respondent along with persons supporting his candidature taking advantage of the situation arrived at the Mill gate of the said Mills and published a false news to the effect that Sri Suraj Prasad Awasthi the nearest contesting candidate of the respondent had asked the Management of the said Mills not to distribute bonus to the workers. When it was brought to the notice of the said Sri Suraj Prasad Awasthi he issued a public statement contradicting the false news spread by the respondent or by persons supporting his candidature, but this contradiction could not undo the wrong and mischief done by the respondent and this has materially effected the result of the said election.

- (h) That the respondent was disqualified to be chosen to fill the parliamentary seat of the Parliamentary Constituency No. 331, Kanpur under the various provisions of the Representation of the People Act, 1951.
- (i) That the provisions of the Representation of the People Act 1951 were not complied with by the respondent as required U/S 9 Clause 3 of the Representation of the People Act, 1951.
- (j) That the Election Returns filed by the Respondent are false and cannot be relied upon.

6. That the cause of action accrued to the petitioner on or about 29th January 1957 when the nomination papers were filed for the said parliamentary election, again on 1st March 1957 when a false news was spread by the respondent or by persons supporting his candidature against Sri Suraj Prasad Awasthi and again on 13th March 1957 when the result of the said election was declared and on account of illegalities and irregularities disclosed above the respondent was not entitled to be declared duly elected.

7. That the petitioner has deposited the requisite security of Rs. 1,000/-/- in the State Bank of India Kanpur and a receipt thereof is attached herewith.

Relief Claimed

Wherefore the petitioner claims the following relief:—

That the election of the Respondent from the Parliamentary Constituency No. 331, Kanpur be declared void and the petitioner be awarded costs of this petition.

Petitioner.

Verification

I, Sri Krishna Agrawal, do hereby verify that the contents of paras 1, 2, 3, 4 and 7 are true to my personal knowledge and contents of paras 5 including sub-para, and 6 are true on the information received and believed to be true.

Verified this 24th day of April 1957 at Chowk, Kanpur.

Petitioner.

[No. 82/284/57.]

By order,
DIN DAYAL, Under Secy.

